

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
VALERO REFINING-TEXAS, L.P.
RN100219310

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2016-1414-AIR-E

On JAN 30 2019, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Valero Refining-Texas, L.P. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a petroleum refinery located at 9701 Manchester Street in Houston, Harris County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted from February 17, 2016 through February 26, 2016, an investigator documented that:
 - a. The Derrick Flare, Emission Point Number ("EPN") 30FL1, was operated without a flame present from August 6, 2015 to November 18, 2015; and
 - b. The deviation report for the April 1, 2015 through September 30, 2015 reporting period did not include a deviation for failing to operate the Derrick Flare, EPN 30FL1, with a pilot flame present at all times.
3. During record reviews conducted from March 21, 2016 through April 04, 2016, an investigator documented that:

- a. Incident No. 228006 occurred on September 29, 2015, but was not reported until February 19, 2016, and Incident No. 228007 began on October 20, 2015, but was not reported until February 19, 2016;
 - b. The Respondent released 221 pounds ("lbs") of hydrogen sulfide ("H₂S") and 8,347 lbs of volatile organic compounds ("VOC"), including 2,448 lbs of highly reactive volatile organic compounds ("HRVOC"), from the Derrick Flare, EPN 30FL1, during an emissions event (Incident No. 228006) that occurred on September 29, 2015 and lasted 11 hours and 15 minutes. The emissions event occurred during a scheduled maintenance event when process gas was routed to the Derrick Flare, EPN 30FL1, while the flare pilots were out. TCEQ staff determined that this emissions event was not timely reported; and
 - c. The Respondent released 128 lbs of H₂S and 7,989 lbs of VOC, including 2,522 lbs of HRVOC, from the Derrick Flare, EPN 30FL1, during an emissions event (Incident No. 228007) that began on October 20, 2015 and lasted 62 hours and 48 minutes. The emissions event occurred during a scheduled maintenance event when process gas was routed to the Derrick Flare, EPN 30FL1, while the flare pilots were out. TCEQ staff determined that this emissions event was not timely reported.
4. During a record review conducted from July 7, 2016 through July 21, 2016, an investigator documented that the Respondent released 5,230.93 lbs of sulfur dioxide ("SO₂") and 53.47 lbs of H₂S from the Sulfur Recovery Unit B ("SRU-B") Tail Gas Incinerator, EPN 46CB6301, and 1,941.7 lbs of SO₂, 21.1 lbs of H₂S, 12.1 lbs of nitrogen oxides, 87.3 lbs of carbon monoxide, and 44.7 lbs of VOC, including 4.8 lbs of HRVOC, from the Derrick Flare, EPN 30FL1, during an emissions event (Incident No. 233822) that occurred on May 24, 2016 and lasted four hours and 50 minutes. The emissions event occurred due to an electrical disconnect that activated the SRU-B Thermal Reactor Emergency Shutdown and tripped the SRU-B. TCEQ staff determined that the emissions event could have been avoided through better operational practices.
 5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On February 19, 2016, submitted the initial notifications for Incident Nos. 228006 and 228007;
 - b. By March 30, 2016, in order to prevent the recurrence of emissions events due to same or similar causes as Incident Nos. 228006 and 228007:
 - i. Added a low flow alarm on the natural gas supply meter to flare pilots;
 - ii. Installed a car seal device on the natural gas supply to the flare's pilot valves;
 - iii. Routed the flare thermocouple signal to a data historian;
 - iv. Added a low temperature alarm to thermocouple monitoring;

- v. Established inspection rounds as additional verification of the thermocouple operation; and
 - vi. Developed a trouble shooting guide to help identify abnormal flare flow conditions.
- c. By April 29, 2016, submitted a revised deviation report for the April 1, 2015 through September 30, 2015 reporting period to include the deviation for failing to operate a flare with a flame present at all times and reviewed the refinery deviation reporting requirements and tracking calendar to ensure that all instances of deviations are reported;
- d. By July 7, 2016, installed new instrumentation to help detect early flare flow in the refinery to ensure the operation of flares with a pilot flame present at all times;
- e. By July 21, 2016, conducted refresher training requirements to ensure the timely submittal of initial notifications for reportable emissions events; and
- f. By October 31, 2016, developed a preventative maintenance procedure for marshalling panels containing emergency shutdown devices ("ESD") to be performed during unit maintenance turnaround and developed a plan to identify and label marshalling panels containing wiring for the ESD to prevent recurrence of emissions events due to same or similar causes as Incident No. 233822.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to operate a flare with a flame present at all times, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 60.18(c)(2), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. O1381, Special Terms and Conditions ("STC") No. 24, and New Source Review ("NSR") Permit No. 2501A, Special Conditions ("SC") No. 10.B.
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1381, General Terms and Conditions.
4. As evidenced by Finding of Fact No. 3.a, the Respondent failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery, in violation of 30 TEX. ADMIN. CODE §§ 101.201(a)(1)(B) and 122.143(4), FOP No. O1381, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. As evidenced by Finding of Fact No. 3.b, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O1381, STC No. 24, and

NSR Permit No. 2501A, SC No. 1. Since the emissions event was not timely reported, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

6. As evidenced by Finding of Fact No. 3.c, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01381, STC No. 24, and NSR Permit No. 2501A, SC No. 1. Since the emissions event was not timely reported, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
7. As evidenced by Finding of Fact No. 4, the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01381, STC No. 24, and NSR Permit Nos. 2501A and PSDTX767M2, SC No. 1. Since the emissions event could have been avoided through better operational practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
8. An administrative penalty in the amount of \$47,888 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid the \$47,888 penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Conclusions of Law No. 8 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Valero Refining-Texas, L.P., Docket No. 2016-1414-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088


2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and

substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
6. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY


For the Commission

2/4/19
Date


For the Executive Director

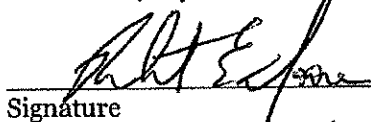
12/10/18
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

10/26/18
Date

ROBERT E. MOORE
Name (Printed or typed)
Authorized Representative of
Valero Refining-Texas, L.P.

VP & GM
Title

☐ If mailing address has changed, please check this box and provide the new address below:

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 5, 2019

FIRST CLASS MAIL

Robert E. Moore, Vice President and General Manager
Christopher Hendrix, Environmental Engineer
Valero Refining-Texas, L.P.
9701 Manchester Street
Houston, Texas 77012

RE: Valero Refining-Texas, L.P.
TCEQ Docket No. 2016-1414-AIR-E; Permit No. 2501A
Agreed Order Assessing Administrative Penalties

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Texas Commission on Environmental Quality's Enforcement Division at (512) 239-2545 or the Litigation Division at (512) 239-3400. If there are questions pertaining to the mailing of the order, then please contact Michael O'Malley of the Office of the Chief Clerk at (512) 239-3300.

Sincerely,

A handwritten signature in cursive script that reads "Bridget C. Bohac".

Bridget C. Bohac
Chief Clerk

BCB/mgo

Enclosure

cc: Margarita Dennis, Enforcement Coordinator, TCEQ Enforcement Division